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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,731	11/21/2003	Richard Lauch	0127-083P/JAB	3536
22831	7590	07/18/2005	EXAMINER	
SCHWEITZER CORNMAN GROSS & BONDELL LLP 292 MADISON AVENUE - 19th FLOOR NEW YORK, NY 10017			SPAHN, GAY	
			ART UNIT	PAPER NUMBER

3673

DATE MAILED: 07/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/719,731	Applicant(s) LAUCH, RICHARD	
	Examiner Gay Ann Spahn	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 Nov 2004, 25 Feb 2004 & 27 Aug 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 November 2004 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>25 Feb & 30 Aug 04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 25 February 2004 and the information discloses statement (IDS) submitted on 30 August 2004 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

Drawings

The drawings are objected to because Fig. 4 should have cross-hatching on the right-hand side of the main corrugated panel (12) adjacent to the downward leg of the upper channel element (14) and upward leg of the lower channel element (16) similar to as is shown on the left-hand side of the main corrugated panel (12). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each

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drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The abstract of the disclosure is objected to because the heading should have the letter --e-- inserted after "th". Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because of the following informalities: on page 3, line 6, the reference numeral "40" is not shown in the drawing figures. It is believed reference numeral "40" should be changed to --30--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Shaver (U.S. Patent No. 6,079,168).

As to claim 1, Shaver discloses an escalator side truss assembly (see Fig. 12), comprising a corrugated panel (28, 30) and top and bottom stiffeners (32, 32') extending substantially the length of the corrugated panel (28, 30) fastened (at 56, 56') to the corrugated panel (28, 30).

The recitation of "escalator side truss" in the preamble is a statement of intended use and as such all the examiner need do is shown that the structure of the reference is capable of performing such intended use which Shaver clearly is.

As to claim 2, Shaver discloses the side truss assembly of claim 1 as discussed above, and Shaver further discloses that the corrugated panel (28, 30) has corrugation fold lines extending perpendicular to a length of the stiffeners (32, 32').

As to claim 3, Shaver discloses the side truss assembly of claim 1 or 2 as discussed above, and Shaver further discloses that the corrugated panel is of stainless steel (see col. 6, lines 12-14, wherein it states that "[t]he corrugated panels 28, 30 are typically formed of stainless steel, galvanized steel, aluminum or other appropriate metal").

Claims 1 and 2 are rejected under U.S.C. 102(b) as being anticipated by Campbell (U.S. Patent No. 3,481,643).

As to claim 1, Campbell discloses an escalator side truss assembly (see Fig. 1), comprising a corrugated panel (10) and top and bottom stiffeners (12, 12) extending substantially the length of the corrugated panel (10) fastened to the corrugated panel

(see col. 2, lines 48-50 wherein it states that "[t]he channels 12 are welded or bonded to the unit 10 at contacting parts thereof.").

The recitation of "escalator side truss" in the preamble is a statement of intended use and as such all the examiner need do is shown that the structure of the reference is capable of performing such intended use which Campbell clearly is.

As to claim 2, Campbell discloses the side truss assembly of claim 1 as discussed above, and Campbell further discloses that the corrugated panel (10) has corrugation fold lines extending perpendicular to a length of the stiffeners (12, 12).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaver (U.S. Patent No. 6,079,168) in view of Campbell (U.S. Patent No. 3,481,643).

As to claim 4, Shaver discloses the side truss assembly of claim 3 as discussed above, but Shaver fails to explicitly disclose that at least one intermediate bracket is affixed to the corrugated panel for supporting a roller assembly of the escalator.

Campbell discloses a corrugated panel and stiffener assembly (see Fig. 1) wherein at least one intermediate bracket (28) is affixed to the corrugated panel (10) for supporting a roller assembly of the escalator.

The recitation of "for supporting a roller assembly of the escalator" is a statement of intended use and as such all the examiner need do is shown that the structure of the reference is capable of performing such intended use which Campbell clearly is.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the side truss assembly of Shaver by affixing at least one intermediate bracket as taught by Campbell in order to provide better support and stiffness to the assemblage.

As to claim 5, Shaver discloses the side truss assembly of claim 3 as discussed above, but Shaver fails to explicitly disclose that the stiffeners are fastened to the corrugated panel by welds.

Campbell discloses a corrugated panel and stiffener assembly (see Fig. 1) wherein the stiffeners (12) are fastened to the corrugated panel (10) by welds (see col. 2, lines 48-50 wherein it states that "[t]he channels 12 are welded or bonded to the unit 10 at contacting parts thereof.").

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the escalator side truss of Shaver to have the stiffeners fastened to the corrugated panels by welds as taught by Campbell in order to have a stronger connection since more of the contact area is fastened to each other than is the case with connection by bolt and nuts.

Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell (U.S. Patent No. 3,481,643) in view of Shaver (U.S. Patent No. 6,079,168).

As to claim 3, Campbell discloses the side truss assembly of claim 1 or 2 as discussed above, but Campbell fails to explicitly disclose that the corrugated panel is of stainless steel (see col. 2, lines 9-10 wherein it states that “[t]he chassis unit 10 preferably constitutes a corrugated member, preferably formed of sheet metal”, but does not explicitly say stainless steel).

Shaver discloses that the corrugated panel is of stainless steel (see col. 6, lines 12-14, wherein it states that “[t]he corrugated panels 28, 30 are typically formed of stainless steel, galvanized steel, aluminum or other appropriate metal . . .”).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the escalator side truss assembly of Campbell to make the corrugated panel be made of stainless steel as taught by Shaver in order to better resist rusting.

As to claim 4, Campbell in view of Shaver discloses the side truss assembly of claim 3 as discussed above, and Campbell (see Fig. 1) discloses that at least one intermediate bracket (28) is affixed to the corrugated panel (10) for supporting a roller assembly of the escalator.

The recitation of “for supporting a roller assembly of the escalator” is a statement of intended use and as such all the examiner need do is shown that the structure of the reference is capable of performing such intended use which Campbell clearly is.

As to claim 5, Campbell in view of Shaver discloses the side truss assembly of claim 3 as discussed above, and Campbell (see Fig. 1) discloses that the stiffeners (12) are fastened to the corrugated panel (10) by welds (see col. 2, lines 48-50 wherein it

states that "[t]he channels 12 are welded or bonded to the unit 10 at contacting parts thereof.").

Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaver (U.S. Patent No. 6,079,168) in view of Bukaitz et al. (U.S. Patent No. 3,887,085).

As to claim 6, Shaver discloses the side truss assembly of claim 3 as discussed above, and Shaver further discloses that the side truss assembly is of a parallelogram shape (i.e., two sets of parallel sides) with a rectangular corrugated panel (Fig. 12).

However, Shaver fails to explicitly disclose that the rectangular corrugated panel of the side truss assembly is located adjacent to a trapezoidal end panel at an end of the corrugated panel and between the stiffeners.

Bukaitz et al. discloses an assembly wherein the rectangular corrugated panel (see Figs. 5 and 6A) is located adjacent to a trapezoidal end panel (50) at an end of the corrugated panel and between the stiffeners.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the escalator side truss assembly of Shaver to include the trapezoidal end panel of Bukaitz et al. in order to provide for irregular shaped panel assemblages as needed.

As to claim 7, Shaver in view of Bukaitz et al. discloses the side truss assembly of claim 6 as discussed above, but Shaver in view of Bukaitz fails to explicitly disclose that the end panel is fastened to the stiffeners and corrugated panel by welds. Instead,

Fig. 5 of Bukaitz shows the end panel fastened to the stiffeners and corrugated panels by a friction fit and Fig. 6A of Bukaitz et al. shows the end panel fastened to the stiffeners by screw fasteners and to the adjacent panels by the use of flange and channel friction or snap fit.

However, it is well settled that “[g]enerally, it is not invention to change size or degree of thing or of any feature or function of machine or manufacture; there is no invention where change does not involve different concept, purposes, or objects, but amounts to doing the same thing substantially the same way with better results.” (See *Hobbs v. Wisconsin Power and Light Company et al.*, 115 USPQ 371 (CA 1957).) Thus, since connecting the end panels by welding amounts to doing the same thing as connecting the end panels by friction fit or screw fasteners in substantially the same way with substantially the same results, the welding of the end panels to the stiffeners and corrugated panels would have constituted a further obvious expedient to one having ordinary skill in the art at the time the invention was made since it is well founded that merely changing type of connection to another equivalent type of connection is not unobvious. (See *Brunswick Corporation v. Champion Spark Plug Company*, 216 USPQ 1 (CA 7 1982)).

As to claim 8, Shaver in view of Bukaitz et al. discloses the side truss assembly of claim 6 as discussed above, and Bukaitz et al. further discloses that the end panel is of trapezoidal shape (see end panel 50 in Fig. 5 and Fig. 6A).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the escalator side truss assembly of Shaver to include

the trapezoidal end panel of Bukaitz et al. in order to provide for irregular shaped panel assemblages as needed.

Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell (U.S. Patent No. 3,481,643) in view of Shaver (U.S. Patent No. 6,079,168), as applied to claim 3 above, and further in view of Bukaitz et al. (U.S. Patent No. 3,887,085).

As to claim 6, Campbell in view of Shaver discloses the side truss assembly of claim 3 as discussed above, and Campbell in view of Shaver further discloses that the side truss assembly is of a parallelogram shape (i.e., two sets of parallel sides) with a rectangular corrugated panel.

However, Campbell in view of Shaver fails to explicitly disclose that the rectangular corrugated panel of the side truss assembly is located adjacent to a trapezoidal end panel at an end of the corrugated panel and between the stiffeners.

Bukaitz et al. discloses an assembly wherein the rectangular corrugated panel (see Figs. 5 and 6A) is located adjacent to a trapezoidal end panel (50) at an end of the corrugated panel and between the stiffeners.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the escalator side truss assembly of Campbell in view of Shaver to include the trapezoidal end panel of Bukaitz et al. in order to provide for irregular shaped panel assemblages as needed.

As to claim 7, Campbell in view of Shaver and Bukaitz et al. discloses the side truss assembly of claim 6 as discussed above, but Campbell in view of Shaver and Bukaitz et al. fails to explicitly disclose that the end panel is fastened to the stiffeners and corrugated panel by welds.

Instead, Fig. 5 of Bukaitz shows the end panel fastened to the stiffeners and corrugated panels by a friction fit and Fig. 6A of Bukaitz et al. shows the end panel fastened to the stiffeners by screw fasteners and to the adjacent panels by the use of flange and channel friction or snap fit.

However, it is well settled that “[g]enerally, it is not invention to change size or degree of thing or of any feature or function of machine or manufacture; there is no invention where change does not involve different concept, purposes, or objects, but amounts to doing the same thing substantially the same way with better results.” (See *Hobbs v. Wisconsin Power and Light Company et al.*, 115 USPQ 371 (CA 1957).) Thus, since connecting the end panels by welding amounts to doing the same thing as connecting the end panels by friction fit or screw fasteners in substantially the same way with substantially the same results, the welding of the end panels to the stiffeners and corrugated panels would have constituted a further obvious expedient to one having ordinary skill in the art at the time the invention was made since it is well founded that merely changing the type of connection to another equivalent type of connection is not unobvious. (See *Brunswick Corporation v. Champion Spark Plug Company*, 216 USPQ 1 (CA 7 1982)).

As to claim 8, Campbell in view of Shaver and Bukaitz et al. discloses the side truss assembly of claim 6 as discussed above, and Bukaitz et al. further discloses that the end panel is of triangular or trapezoidal shape (see end panel 50 in Fig. 5 and Fig. 6A).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the escalator side truss assembly of Shaver to include the trapezoidal end panel of Bukaitz et al. in order to provide for irregular shaped panel assemblages as needed.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 5,855,099 to Hoffman discloses a sectional storm panel assembly. U.S. Patent No. 4,186,535 to Morton discloses a shear load resistant structure. U.S. Patent No. 4,548,017 to Blando discloses a building panel. U.S. Patent No. 6,385,942 to Grossman et al. discloses building panels. U.S. Patent No. 5,126,183 to Smith, II discloses curved paneling including honeycomb core material having crimps in one edge. U.S. Patent Application Publication No. 2004/0221518 to Westra discloses live fire burn room and insulating system for a live fire burn room. U.S. Patent No. 4,958,473 to Iyoda discloses a frame, angle member for use in the frame, and method of making a joint portion of the angle member. U.S. Patent No. 4,811,829 to Nakazawa et al. discloses a frame of passenger conveyor. U.S. Patent No. 4,662,502 to Nakatani discloses a curve escalator. U.S. Patent No. 4,232,776 to

Dean discloses an accelerating walkway. U.S. Patent No. 3,707,220 to Boltrek et al. discloses a modular passenger conveyor construction. U.S. Patent No. 3,793,961 to Salvadorini discloses a system for the conveyance of passengers or goods using a continuous and fast belt. U.S. Patent No. 4,736,566 to Krotsch discloses a modular fabrication panel system. U.S. Patent No. 5,628,495 to Gandara discloses a metal fence structure. U.S. Patent No. 5,596,849 to Hill discloses a shutter system and method. U.S. Patent No. 4,333,271 to DePaolo et al. discloses a hurricane panel security device. U.S. Patent No. 2,194,113 to Covell et al. discloses a grille construction. U.S. Patent No. 2,125,691 to Ragsdale et al. discloses a sheet metal beam.

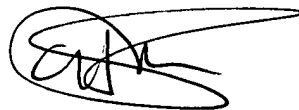
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gay Ann Spahn whose telephone number is (571)-272-7731. The examiner can normally be reached on Monday through Thursday, 8:30 am to 7:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford can be reached on (571)-272-7049. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

^{GAS}
Gay Ann Spahn, Patent Examiner
June 25, 2005



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